



PUBLIC NOTICE

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DA 07-606
February 8, 2007

DOMESTIC 214 AUTHORIZATION GRANTED

Application Filed for the Transfer of Control of Impsat USA, Inc. from Impsat Fiber Networks, Inc. to Global Crossing Limited

WC Docket No. 06-215

By the Chief, Wireline Competition Bureau:

On November 28, 2006, Global Crossing Limited (“GCL”) and Impsat Fiber Networks, Inc. (“Impsat”) (collectively, the “Applicants”), filed an application, pursuant to section 63.04 of the Commission’s rules,¹ requesting authority to transfer control of Impsat’s wholly owned subsidiary, Impsat USA, Inc. (“Impsat USA”), to GCL.²

The Commission released a public notice accepting the application for streamlined processing on December 5, 2006.³ On December 19, 2006, the Department of Homeland Security (“DHS”), with the concurrence of the Department of Justice (“DOJ”), including the Federal Bureau of Investigation (“FBI”) (collectively, the “Executive Branch Agencies”) filed with the Commission a letter requesting that the Commission defer grant of this application while the Executive Branch Agencies addressed potential national security, law enforcement, and public safety issues.⁴ In response to the request filed by the Executive Branch Agencies, the Wireline Competition Bureau removed the application from streamlined review.⁵

¹ 47 C.F.R. § 63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed an application for transfer of control associated with authorization for international services. Any action on this domestic 214 application is without prejudice to Commission action on other related, pending applications.

³ *Domestic Section 214 Application Filed for the Transfer of Control of Impsat USA, Inc. From Impsat Fiber Networks, Inc. to Global Crossing Limited*, WC Docket No. 06-215, Public Notice, DA 06-2470 (rel. Dec. 5, 2006).

⁴ *See* Letter from Stewart A. Baker, Assistant Secretary for Policy, United States Department of Homeland Security, to Marlene H. Dortch, FCC, WC Docket No. 06-215 & IB File No. ITC-T/C-20061128-00533 (filed Dec. 19, 2006).

⁵ *See Notice of Removal of Domestic Section 214 Application From Streamlined Treatment*, WC Docket No. 06-215, Public Notice, DA 06-2583 (rel. Dec. 27, 2006).

On February 1, 2007, the Executive Branch Agencies submitted a Petition to Adopt Conditions to Authorizations and Licenses (“Petition”).⁶ In the Petition, the Executive Branch Agencies advised the Commission that they have no objection to the Commission granting its consent in this proceeding, provided the Commission conditions the grant on GCL abiding by the commitments and undertakings contained in the Network Security Agreement entered into between GCL, Singapore Technologies Telemedia Pte Ltd, and the Executive Branch Agencies on September 24, 2003 (“Agreement”), as amended by Amendment 1 to the Agreement. Amendment 1 to the Agreement was filed in WC Docket No. 06-215 on February 1, 2007.⁷

The Wireline Competition Bureau finds, upon consideration of the record, that grant of the application, subject to GCL abiding by the commitments and undertakings contained in the Agreement, as amended by Amendment 1 to the Agreement, will serve the public interest, convenience, and necessity. Upon consummation of the transaction, the resulting entity will have a market share in the U.S. interstate interexchange market of less than 10 percent, and will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by a dominant local exchange carrier in the U.S. that is not a party to the transaction. In addition, no party to the transaction is dominant with respect to any domestic service.

Consistent with Commission precedent, the Wireline Competition Bureau accords the appropriate level of deference to the Executive Branch Agencies’ expertise on national security and law enforcement issues.⁸ Therefore, pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 0.291 of the Commission’s rules,⁹ the Wireline Competition Bureau hereby grants the application discussed in this Public Notice.

Pursuant to section 1.103 of the Commission’s rules, the grant is effective upon release of this Public Notice.¹⁰ Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission’s rules may be filed within 30 days of the date of this Public Notice.¹¹

For further information, please contact Jodie May at (202) 418-0913, Competition Policy Division, Wireline Competition Bureau.

⁶ See Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 06-215 and ITC-T/C-20061128-00533, SCL-T/C-20061128-00011, SES-T/C-20061128-02052 (filed Feb. 1, 2007).

⁷ See Petition to Adopt Conditions to Authorizations and Licenses, WC Docket No. 06-215 and ITC-T/C-20061128-00533, SCL-T/C-20061128-00011, SES-T/C-20061128-02052, Attachment (filed Feb. 1, 2007).

⁸ The Commission considers national security, law enforcement, foreign policy, and trade policy concerns when analyzing a transfer of control or assignment application in which foreign ownership is an issue. See *Amendment of the Commission’s Regulatory Policies to Allow Non-U.S. Licensed Satellites Providing Domestic and International Service in the United States*, Report and Order, 12 FCC Rcd 24094, 24170-72, paras. 178-82 (1997); *Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23891, 23919-21, paras. 61-66 (1997) (“*Foreign Participation Order*”), Order on Reconsideration, 15 FCC Rcd 18158 (2000). In assessing the public interest, the Commission considers the record and accords the appropriate level of deference to Executive Branch expertise on national security and law enforcement issues. See *Foreign Participation Order*, 12 FCC Rcd at 23919-21, paras. 61-66.

⁹ 47 C.F.R. § 0.291.

¹⁰ See 47 C.F.R. § 1.103.

¹¹ See 47 C.F.R. §§ 1.106, 1.115.

